

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

OXFORD HOUSE, INC. and OXFORD
HOUSE-FOUR CORNERS,

Plaintiffs,

v.

CITY OF FARMINGTON, NEW MEXICO

Defendants.

Case No. 1:24-cv-00757

COMPLAINT

Jury Trial Demanded

INTRODUCTION

1. For almost fifty years, Oxford House, Inc. (OHI) has worked to establish self-run, self-supported recovery houses that provide an opportunity for every recovering individual to learn a clean and sober way of life—forever. In furtherance of its mission, OHI has established nearly 4,000 Oxford Houses nationwide.

2. On March 1, 2024, OHI opened Oxford House-Four Corners (OHFC) in Farmington, New Mexico. Within weeks of OHFC opening, the City of Farmington (the “City” or “Farmington”) brought two enforcement actions in an attempt to shut OHFC down precisely because the home is occupied by people with disabilities. The City’s actions violate the central tenets of the Fair Housing Act (“FHA”) and the Americans with Disabilities Act (“ADA”).

3. The FHA “is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats

to safety are specifically rejected as grounds to justify exclusion...” H.R. Rep. No. 711, 100th Cong., 2d Sess. 18 (1988), reprinted at 1988 U.S. Code Cong. & Admin. News 2173, 2179.

4. In passing the FHA, Congress explicitly called for an end to zoning restrictions that limit housing opportunities for people with disabilities to live in communities on equal terms as their peers and rejected the idea that the assumptions and misunderstandings about people with disabilities can serve as the basis for adverse action or exclusion from our country’s communities.

5. Similarly, Congress passed the ADA in 1990 in an effort to eradicate discrimination on the basis of disability in all areas of public life and “to assure equality of opportunity, full participation, independent living, and economic self-sufficiency” for people with disabilities. 42 U.S.C. § 12101(a)(7).

6. The ADA requires that no qualified individual with a disability shall, by reason of such disability, be . . . denied the benefits of the services . . . of a public entity or be subjected to discrimination by any municipal entity. 42 U.S.C. § 12132.

7. In direct contravention of these principles, Farmington is attempting to block the operation of OHFC because it is occupied by people with disabilities.

8. Oxford Houses like OHFC are single-family houses that are rented by a group of individuals who live together as a family. The emotional and mutual support and bonding Oxford House residents give each other in support of their recovery from drug addiction and alcoholism is the equivalent of the type of love and support given and received in a traditional family.

9. In accordance with the Oxford House model, OHFC rented a large, single-family home in Farmington. The City almost immediately began attempting to force OHFC to apply for

a special use permit to operate as a “group care facility” or a “group care home.” The City insists that OHFC qualifies as a group care facility or group care home under Farmington’s zoning ordinance, despite clear and incontrovertible evidence that OHFC fits the definition of neither.

10. Under the Farmington zoning ordinance, group care facilities and group care homes contemplate the provision of treatment services by 24-hour caregivers and are required to obtain appropriate licensing from the State of New Mexico. OHFC, like all Oxford Houses, does not provide treatment services, nor does it have caregivers in the home. And OHFC is not licensed by the State of New Mexico because no license is available for a home of its kind.

11. OHFC—as a group of individuals who share the household financial and decision-making responsibilities, and who provide each other with a loving and supportive environment—is the functional equivalent of a family. In recognition of this reality, OHI submitted a reasonable accommodation request pursuant to the federal Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B), asking the City to treat the residents of OHFC as the functional equivalent of a family, treat the home as a single-family use, and waive Farmington’s limit on the number of unrelated adults who may live together as a family in a single-family home.

12. Instead of responding to the reasonable accommodation request, the City filed a civil enforcement action against OHI, asserting that it was improperly operating a group care facility without a permit. When OHI explained that that OHFC is neither a group care facility nor a group care home, the City doubled down, issuing a criminal summons against an OHI employee.

13. Plaintiffs Oxford House, Inc. and Oxford House-Four Corners bring this civil rights action under the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Americans with

Disabilities Act, 42 U.S.C. § 12131 *et seq.*, seeking a declaratory judgment, preliminary and permanent injunctive relief, and compensatory and punitive damages resulting from Defendant's discriminatory actions, as well as their reasonable attorneys' fees and costs.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331 because the action arises under the laws of the United States—the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and the Americans with Disabilities Act, 42 U.S.C. § 12132 *et seq.*

15. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201, 2202 and 1343, and by Rules 57 and 65 of the Federal Rules of Civil Procedure.

16. Under 28 U.S.C. § 1391(b), venue is proper in the District of New Mexico because all events and omissions giving rise to Plaintiffs' claims occurred in this District and one Plaintiff and Defendant reside in this District.

PARTIES

17. Plaintiff Oxford House, Inc. is a 501(c)(3) nonprofit organization, founded in 1975 and incorporated in the State of Maryland. Oxford House, Inc. is an umbrella organization serving all individual Oxford Houses throughout the United States. It has exclusive authority for chartering individual Oxford Houses.

18. Oxford House, Inc. assists in the establishment of accessible affordable housing opportunities for individuals with disabilities, including the individuals recovering from drug addiction or alcoholism who live at OHFC.

19. Plaintiff Oxford House-Four Corners is an unincorporated association comprising the residents of the OHFC.

20. Defendant City of Farmington, New Mexico is a New Mexico municipality. The City of Farmington is a public entity within the meaning of Title II of the Americans with Disabilities Act.

21. Defendant City of Farmington is responsible for the acts of its agents and employees, and is responsible for the enforcement of its zoning, building, and property maintenance codes.

FACTS

I. The Oxford House Model

22. The mission of OHI is to establish self-run, self-supported recovery houses that provide an opportunity for every recovering individual to live independently and learn a clean and sober way of life—forever. Oxford House-Four Corners is one of nearly 4,000 Oxford Houses nationwide that operate the Oxford House model to provide safe and sober housing for persons in recovery from alcoholism and substance abuse.

23. Since the first house was established in 1975, Oxford Houses have provided an opportunity for people recovering from alcoholism and substance abuse to maintain their sobriety in a supportive living environment that does not require the provision of treatment or counseling services. Creating a housing opportunity that would allow residents to live outside a treatment facility or clinic and help prevent relapse was the purpose of the first Oxford House, and that purpose has been served, day by day, house by house, in each community served by an Oxford House in the United States. Oxford Houses have proven to be a remarkably effective and low-cost method of allowing persons in recovery from alcoholism and substance abuse to live outside treatment centers and preventing relapse.

24. To achieve their purpose, Oxford Houses (1) have no time limit for how long a resident can live in an Oxford House; (2) follow a democratic system of operation; (3) utilize self-support to pay all the household expenses; and (4) adhere to the absolute requirement that any resident who returns to using alcohol or illicit drugs must be immediately expelled. This model helps individuals recovering from alcoholism and substance abuse disorders live independently while achieving long-term sobriety by giving them the time, peer support, and structured living environment necessary for long-term behavior change to take hold.

25. All Oxford Houses are single-family houses that are rented by a group of individuals who live together as a family. The residents of an Oxford House collectively rent the entire premises rather than individual rooms, and all residents have access to the entire house and all of the household facilities. The emotional and mutual support and bonding given Oxford House residents in support of their recovery from drug addiction and alcoholism is the equivalent of the type of love and support given and received in a traditional family.

26. The residents of Oxford Houses share financial responsibility for the rent and utilities, which they pay out of a single household checking account. Residents also share all household responsibilities, including cooking, shopping, cleaning, and general care of the premises. All decisions regarding the functioning of an Oxford House are made democratically. Oxford House residents, including OHFC residents, live together as a single housekeeping unit.

27. As is true for OHFC, all leases for Oxford Houses are between the owner of the home and the Oxford House as an association of its residents. The Oxford House as an association is responsible for paying the rent and utilities for the property. An important part of

why Oxford House has been so successful is that accountability and responsibility is placed on the recovering individuals themselves.

28. Oxford Houses have no permanent staff, paid or otherwise, living in the house or overseeing the house, and no treatment or professional services are provided at the premises. The Substance Abuse and Mental Health Services Administration (SAMHSA), a branch of the U.S. Department of Health and Human Services, recognizes that Oxford Houses “do not have professionally trained staff on site by design.”¹

29. The Oxford House model works: A 2006 study found that individuals who were randomly assigned to live in an Oxford House enjoyed significantly higher income and significantly lower rates of substance use and incarceration than individuals assigned to outpatient treatment and self-help groups.²

30. Beginning in 2011, the SAMHSA listed the Oxford House program as a best practice on the National Registry of Evidence-based Programs and Practices (NREPP). SAMHSA recognizes the Oxford House model as a type of Recovery Housing, which research has shown to be “associated with a variety of positive outcomes for residents including decreased substance use, reduced likelihood of return to use, lower rates of incarceration, higher income, increased employment, and improved family relationships.”³

¹ SAMHSA, *Best Practices for Recovery Housing* 6 (2023), available at <https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf>.

² Leonard Jason, et al., *Communal Housing Settings Enhance Substance Abuse Recovery*, 96 Am. J. of Pub. Health 1727, 1728 (2006), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1586125/>.

³ SAMHSA, *supra* note 1 at 1.

II. Oxford House Residents, Critical Mass, and the Therapeutic Necessity of the Oxford House Model

31. All past and present Oxford House residents are individuals with the disability of Substance Use Disorder (SUD). *See* Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* (DSM-V) 483 (5th ed. 2013). SUD is a disease that affects a person's brain and behavior and leads to an inability to control the use of drugs or alcohol. SUD impacts Oxford House residents' decision-making processes and ability to concentrate and stay on task. While treatment eventually helps ameliorate SUD symptoms, the underlying disease never disappears. The relapse rate for individuals with SUD is significant if the individual does not have structure, accountability, and support.

32. Because of their disability, all past and present residents of Oxford House have difficulty caring for themselves, and sustaining healthy relationships with friends and family. In addition, they cannot live independently without resuming the use of alcohol and controlled substances. Their underlying addictions substantially limit their ability to live in a family setting in a residential community without relapsing.

33. The residents live in Oxford Houses like OHFC because they want to have an equal opportunity to people without SUD to live in family setting in a residential community. Residents are unable to live in an Oxford House—or any other home in a residential neighborhood—without the supportive structure that an Oxford House provides. The residents need the household structure and support of an Oxford House in order to be able to use and enjoy the home in a manner equal to persons without SUD.

34. Oxford Houses enable residents to recover from alcoholism and substance abuse at their own pace, which in turn allows the residents to live in the community, rather than having to live in a clinic or treatment facility. The length of each resident's stay depends on the resident's continued need for supported living.

35. Oxford House residents are vital to each other's sobriety. They eat together, go out together, attend meetings, and learn living tools to help them transition out of the Oxford House and back into their communities. By living with other persons who are in recovery, the residents should never have to face an alcoholic or addict's deadliest enemy: loneliness and isolation.

36. Based on its five-decade history of founding and supporting Oxford Houses, OHI has learned that, in order to maximize positive outcomes, the necessary number of residents per house is between eight and twelve, depending on the size of and number of bedrooms in the home. This required number of residents is known as the "critical mass" necessary to facilitate continued sobriety for people with SUD.

37. Achieving the critical mass of residents provides more opportunities for social connections, which sustains recovery and decreases the risk of relapse. The number of residents required to reach a critical mass depends on the size of each home. Filling the home to its critical mass residents mitigates the concern that any residents will find themselves at home alone and at risk of relapse.

38. Residents come to OHI with their own experiences and personalities. Operating a program at critical mass increases the likelihood that the residents will find another program member with whom they can connect, which will contribute to successful outcomes. The

therapeutic benefits of an Oxford House allow residents to use and enjoy the home in a manner equal to persons without SUD.

III. Oxford House, Inc.’s Continued Role in Oxford Houses

39. Although each individual Oxford House is responsible to the landlord, OHI plays an important part in making certain that individual homes operate responsibly through the use of the “Charter” mechanism. Each individual group of residents is given an Oxford House Charter which makes it a part of the network of Oxford House recovery houses.

40. The Oxford House Charter carries with it certain privileges. For example, the individual house is (1) given support and education about the operation of self-run, self-supported recovery houses, (2) provided assistance in filling vacancies and enforcing sobriety and financial responsibility, and (3) monitored to assure quality control. It is critically important for every Oxford House that it keep its charter.

41. OHI also monitors the activities of each Oxford House in a number of ways. This includes weekly reports, periodic phone calls, and the maintenance of continuous contact to keep track of vacancies, ensure critical mass, assure financial responsibility, and enforce the Oxford House system of operations.

IV. Farmington’s Zoning Framework

42. Neither “group care home” nor “group care facility” is explicitly defined by the City of Farmington’s zoning ordinances, located in the Farmington Unified Development Code (“FUDC”). *See generally* FUDC Art. 11 (Definitions). Furthermore, the State of New Mexico has not created a classification known as a “group care facility.”

43. Under the FUDC, “[c]are may be provided for not more than eight adults or 12 minors” in a “group care home.” FUDC § 2.4.24(A). The FUDC also provides that “no more than eight adults, including 24-hour caregivers, may reside in any group care home.” *Id.* Additionally, the FUDC requires that “[g]roup care homes shall be licensed or supervised by appropriate state or local agencies.” *Id.* § § 2.4.24(B).

44. FUDC use standards for a “group care facility” require the provision of care to residents by 24-hour caregivers. *See* FUDC § 2.4.25(A). The FUDC mandates that, in a group care facility, “[s]ervices shall be provided to persons who, because of mental or physical disability, addiction to drugs, alcohol, incarceration, or family/school problems, require specialized attention and care to achieve personal independence.” *Id.* § 2.4.25(J).

45. The FUDC also requires that “[a]pplications for permission to construct or operate a group home shall be accompanied by copies of all valid permits required by the State of New Mexico.” *Id.* § 2.4.25(D). Additionally, applications for group care facilities require detailed site plans, off-street parking plans, and operation plans, *id.* § 2.4.25(C), as well as a demonstration of “adequate access and circulation for police, fire, ambulance and other emergency vehicles,” *id.* § 2.4.25(G).

46. Section 2.7.3 of the FUDC describes the three types of residential use categories within the code: accommodations, congregate living, and household living.

47. Group care homes are categorized as “household living,” along with “single-family dwellings, attached single-family dwellings, duplexes, patio homes, multifamily dwellings, townhouses, mobile and manufactured home parks, . . . retirement center apartments, [and] manufactured housing.” FUDC § 2.7.3(C)(3).

48. The FUDC thus distinguishes group care homes from “dormitories; fraternities and sororities; homeless shelters; monasteries and convents; nursing and convalescent homes; [and] hospice homes for more than eight resident clients who are physically disabled, mentally retarded, or emotionally disturbed,” which are categorized as congregate living. FUDC § 2.7.3(B)(3).

49. According to the FUDC use table, only single-family dwellings and multi-section manufactured homes are permitted as of right in single-family zoning districts (attached single family homes are permitted as of right in “single-family, attached” zoning districts). *See id.* § 2.3. Group care homes require a special use permit to exist in a single-family district. *Id.*

50. Obtaining a special use permit is a time-intensive process. In Farmington, a special use permit application requires, *inter alia*, (1) notice and public comment, (2) a detailed site plan, (3) a project description, (4) verification of ownership and interest, and (5) a filing fee.⁴

51. Once submitted, special use permit applications are subjected to “individual review of their location, design, configuration, density, and intensity, in order to determine whether or not a use should be allowed; and may require the imposition of additional conditions in order to ensure the appropriateness and compatibility of the use at a particular location.”⁵ The criteria for this review include (1) the effect on the environment, (2) the compatibility of the project with the surrounding area, (3) whether external impacts are minimized, (4) whether infrastructure impacts are minimized, (5) whether the project is consistent with the Uniform

⁴ City of Farmington Planning Div. Cmty. Works Dep’t, *Special Use Permit Approval Process*, available at <https://www.fmntn.org/DocumentCenter/View/25890/Special-Use-Permit-Approval-Process>.

⁵ *Id.*

Development Code and Farmington's comprehensive plan, (6) the parcel size, and (7) the site plan.

V. Oxford House, Inc. Opens Oxford-House Four Corners Pursuant to a Contract with the State of New Mexico

52. In August 2023, Oxford House, Inc. entered into an agreement with the Behavioral Health Services Division of the New Mexico Human Services Department. The agreement obligated Oxford House, Inc. "to pursue establishment of new Oxford Houses [in New Mexico] in locations to include rural, frontier communities."

53. Pursuant to its agreement with New Mexico, OHI identified the house located in Farmington, as a potential place to establish a new Oxford House.

54. Before OHFC, there were no available sober living homes near Farmington. Individuals graduating from programs at the Cenikor center in Farmington, a treatment and rehabilitation facility for people with SUD, were frequently referred to homes in Amarillo, Texas.

55. On February 2, 2024, Oxford House-Four Corners entered into a two-year lease for the 202 West 38th Street home. The house is in a single-family zoning district and is a large house with six bedrooms. Due to the size of the house and the number of bedrooms, Oxford-House Four Corners has a critical mass of ten residents.

56. Oxford House-Four Corners opened on March 1, 2024. Joseph Rodriguez, an Oxford House outreach worker, was assigned to provide training and technical assistance to the residents to help the residents establish the systems necessary to operate the Oxford House.

VI. Initial Contact with Farmington and Plaintiffs' Reasonable Accommodation Request

57. On March 21, 2024, OHFC was visited by Colby Gibson, a planning manager for the city of Farmington. Gibson informed Mr. Rodriguez that OHFC was required to file a Special Use Permit application to operate either as a group care home or a group care facility. Gibson provided Mr. Rodriguez with an excerpt of the FUDC and a Special Use Permit Application.

58. Under the FUDC's "Use Standards" for each type of facility, OHFC is neither a group care home nor a group care facility. *See* FUDC § 2.4.

59. OHFC has no characteristics of a group care home and is not a group care home. No care is provided at OHFC; there are no caregivers, 24-hour or otherwise, and the home cannot be licensed or supervised by state or local agencies because no licenses are available to Oxford Houses as they are functionally analogous to single-family homes.

60. Neither is OHFC a group care facility: no care is provided at OHFC, no caregivers reside at OHFC, and no permits are required or available for OHFC. Notably, OHI's contract with New Mexico did not require OHI to obtain permits to establish the new Oxford Houses that are called for by the State in the contract.

61. Shortly after his initial visit to OHFC, Gibson left a voicemail for an OHI employee reiterating the City's position that OHFC was required to apply for a special use permit to operate as a group care home or a group care facility.

62. Given the definitions of "group care home" and "group care facility" under the FUDC, Gibson could only have concluded a special use permit was required for the OHFC home because the residents were people with disabilities.

63. On April 19, 2024, Steven Polin, general counsel for OHI, wrote Gibson a letter requesting reasonable accommodations from the City's zoning ordinances, that would allow the residents, who all have disabilities, equal opportunity to live in the community as is enjoyed by individuals without disabilities. Mr. Polin requested that the "City treat the use of Oxford House as the functional equivalent of a family, that the City treat the use of Oxford House Four Corners as a single family use, and that the City grant[] a waiver on the limitations of the maximum number of unrelated persons who can reside together as a family under the City's definition of family."

64. Mr. Polin's request explained why the requested accommodation should be granted under the FHA. The request detailed the necessity for individuals recovering from substance abuse disorders to live in a supportive, drug-free environment in a quiet residential area and that the residents of OHFC cannot live independently without such an environment. The request described that the residents cannot live with their families or friends, or in the neighborhoods that contributed to their use of drugs and alcohol. Instead, the request explained, the residents' only opportunity to live in a residential community of their choosing is a living arrangement such as the one provided by OHFC, where groups of unrelated individuals reside together in a residential neighborhood for mutual support during the recovery process so as to minimize the possibility of resumption of the use of drugs or alcohol.

65. The reasonable accommodations requested by OHI would not create an administrative burden for the City, nor would it fundamentally alter the nature of the zoning activities in the City. OHFC's use of the home is substantially identical to a blood-related family

“living together as a single housekeeping unit in a dwelling,” which is permitted by right under the FUDC.

VII. Farmington Denies the Reasonable Accommodation and Takes Retaliatory Action against Oxford House and Its Employee

66. On April 29, 2024, without responding to the reasonable accommodation request, the City filed a state court complaint against OHI seeking declaratory and injunctive relief. The complaint is predicated on the factually incorrect allegations that OHI “manages an alcohol and substance abuse rehabilitation program” at OHFC. OHI does not manage a rehabilitation program at OHFC.

67. The Complaint alleges that OHI “manages a group care facility at the property.” This is flatly incorrect. Under the FUDC, a group care facility is a facility that provide services to individuals who “require specialized attention.” OHFC does not provide such services. The FUDC also requires group care facilities to be licensed by the State, but no licenses are required—or even available—for OHFC.

68. The only possible reason for the City to assert that OHFC and OHI operate a group care facility in contravention of the zoning ordinance—given that the facts establish that OHFC has *none* of the characteristics of a group care facility—is that the City was motivated by the disability of the OHFC residents.

69. After being made aware of the complaint, Mr. Polin forwarded the reasonable accommodation request to Jennifer Breakell, Farmington City Attorney. Breakell denied the reasonable accommodation request to remove the limit on the number of unrelated persons living in a single home by responding that “the reasonable accommodation is to apply for the [special

use permit to operate as a group care facility or group care home] as previously told to one of Oxford House's employees.”

70. Given the definitions of “group care home” and “group care facility” under the FUDC, Breakell could only have concluded that a special use permit was required for the OHFC home because the residents were people with disabilities.

71. Breakell's response ignored Mr. Polin's exhaustive description of why an Oxford House is neither a group care home nor a group care facility.

72. On information and belief, Breakell would not have concluded that OHFC must apply to operate either as a group care facility or group care home if the OHFC residents were a group of unrelated persons without disabilities who sought to live together as a family unit.

73. On May 20, 2024, in response to the City's repeated requests that OHFC apply for a special use permit to operate as a group home, Mr. Polin submitted an application to the City that emphasized that OHFC was seeking a reasonable accommodation to be treated as the functional equivalent of a single family with an increased limit on the number of unrelated persons. At the same time, Mr. Polin sent a second letter to Breakell explaining why OHFC does not meet the definition of a group care home or facility.

74. Breakell responded by calling the application “not correct,” and claiming that OHI's website stated that OHI provided “treatment services for recovering drug and alcohol addicts.” This language is not on OHI's website and OHI does not, in fact, provide any treatment services for residents at OHFC or any other Oxford House.

75. Breakell's response reflects her continued insistence that any house with residents who were recovering from substance abuse disorders must be either a group care facility or a

group care home. Breakell refused to accept Mr. Polin’s explanations about why OHFC was neither a group care facility nor a group care home due to her discriminatory preconceptions about the individuals with disabilities living at OHFC.

76. When Mr. Polin responded by noting that OHI’s website does not include language that Oxford Houses provide treatment services, Breakell responded: “The [special use permit] application needs to be amended period. If it is not then I will file for a hearing to be set immediately.”

77. Later the same day, a criminal summons was issued to Joseph Rodriguez, who at that time was no longer an employee of OHI. The summons charged Mr. Rodriguez with “failure to comply” with the FUDC’s provisions for group care facilities.

78. The only possible reason for the City to issue a criminal summons accusing OHFC and OHI of improperly operating a group care facility—despite the fact that OHFC fulfills none of the characteristics of a group care facility—is that the City acted because of the disability of the OHFC residents.

VIII. The Farmington Zoning Ordinances Have the Purpose and Effect of Discriminating Against People with Disabilities

79. If “group care home” as defined in the Farmington Code were to apply to OHFC, then Plaintiffs would be harmed by the fact that the City’s zoning ordinance discriminates against individuals with disabilities.

80. Among the types of household living not permitted to exist in single family zoning districts, *see* FUDC §§ 2.3, 2.7.3, only group care homes are not as of right because of the

characteristics of the residents, *i.e.* the near certainty that group home residents will be individuals with disabilities.

81. Attached single family dwellings, duplexes, patio homes, multifamily dwellings, townhouses, mobile and manufactured home parks, and retirement center apartments, are not permitted in single-family zoning because of the nature, size, or structure of the buildings, not the characteristics of its residents.

82. Group care homes can exist in a single-family *house* as a “household living” unit, but not in a single-family home *district* without a special use permit. The City of Farmington intentionally excludes them from being permitted by right in single family-zoning districts because of the fact that the vast majority of group care home residents will be people with disabilities.

83. At a minimum, by singling out group care homes for exclusion from by-right permitting in single-family zoning districts, Farmington is disproportionately preventing individuals with disabilities from an equal opportunity to live in a supportive environment in a residential community of their choosing.

84. The definition of “group care home” under the Farmington zoning ordinance establishes that it applies nearly exclusively if not exclusively to people with disabilities. The description refers to people needing care and the home being licensed or supervised by the State. The overwhelming percentage of single-family homes where care is being provided to the residents and/or are licensed or supervised by the State are occupied by people with disabilities.

INJURIES TO PLAINTIFFS

85. As a result of Defendant's unlawful actions, OHI has suffered, continues to suffer, and will in the future suffer, great and irreparable loss and injury, including, but not limited to economic losses, injury to reputation, interference with OHI and OHFC's ability to carry out its mission to serve people recovering from substance use disorders in residential settings, and deprivation of OHI and OHFC's ability to serve individuals with disabilities in the City of Farmington.

86. OHI and OHFC have experienced significant hardship due to Defendant's discriminatory actions directed at OHFC, and Defendant's continuing efforts to block the use of the house located at 202 West 38th Street as an Oxford House. The City's interpretation of its zoning code and application of its code to OHFC requires additional costs or burdensome application procedures for OHI and OHFC to bear (if they can be met at all) in order to maintain an Oxford House in Farmington.

87. Defendant's continuing attempts to prevent OHI and OHFC from operating an Oxford House at 202 West 38th Street unreasonably restrict housing opportunities for people with disabilities notwithstanding the strong demand and need for such opportunities in Farmington.

88. As a result of Defendant's discriminatory actions, OHI and OHFC have incurred administrative and operational costs associated with the obstruction of their plan to establish an Oxford House in Farmington, including identifying and countering Defendant's discriminatory conduct.

89. Defendant's unlawful conduct, policies, and practices have frustrated and obstructed OHI and OHFC's mission and ongoing work, forced it to divert its resources to counteract Defendant's conduct, and curtailed its other activities.

90. OHI's mission is to establish self-run, self-supported recovery houses that provide an opportunity for every recovering individual to learn a clean and sober way of life—forever. OHI identifies areas with a high need for recovery houses, locates suitable homes in good neighborhoods, educates landlords about the Oxford House model, and provides education and technical assistance to newly established Oxford houses. OHFC has the same mission for the Farmington area.

91. Defendant's discriminatory conduct frustrates OHI and OHFC's mission by interfering with their mission-related activities, impairing their ability to achieve their goal of establishing self-run, self-supported recovery houses, harming the communities that OHI and OHFC serve, and making it more difficult for OHI and OHFC to serve those communities.

92. OHI and OHFC have suffered further damages when—as a result of the Defendant's conduct—they were forced to divert scarce resources to counter Defendant's discriminatory policy and practices, which were impairing their mission. OHI has a small staff and had to divert their limited time and resources to prevent the City from shutting down OHFC due to the City's discriminatory view of OHFC's residents.

93. In carrying out activities, for which it had not budgeted time or money, to counteract the harm caused by the City, OHI was forced to divert significant staff time and funds away from other planned activities. Even with OHFC operating, there remains a significant need for additional recovery homes in Farmington and throughout New Mexico. Due to the City's

actions, OHI was not able to establish subsequent, additional recovery houses in Farmington and elsewhere in the state, which would have furthered OHI's mission of establishing recovery houses for individuals with SUD.

94. Unless enjoined, Defendant and its agents will continue to engage in unlawful discrimination, with the purpose and effect of preventing OHI and OHFC from providing housing to individuals with disabilities in Farmington, preventing OHI from fulfilling its central mission of establishing Oxford Houses for people recovering from substance abuse disorders, and otherwise preventing or limiting the operation of Oxford Houses in Farmington, in frustration of the mission of OHI and OHFC.

95. Defendant's discriminatory actions have denied individuals recovering from substance use disorders access to supportive, community-based sober living residences in Farmington.

96. By making and endorsing statements indicating that people with disabilities should not live in residential neighborhoods, Defendant and its agents have conveyed to people with disabilities and to the general public that discriminatory animus towards people with disabilities is legal and acceptable in the housing market.

97. Defendant, directly and through its representatives and agents, discriminated against Plaintiffs because of the disabilities of the residents that live and are expected to live at OHFC. By requiring a special use permit application, refusing to acknowledge that the OHFC residents are a functional equivalent of a family, and denying OHI and OHFC's reasonable accommodation requests, Defendant has denied and withheld housing and excluded persons from participating in housing because of the disabilities of the residents of OHFC.

98. By initiating both civil and criminal enforcement actions, Defendant has targeted and attempted to punish OHI and OHFC for establishing and operating a sober living home for individuals with SUD.

99. As a proximate result of Defendant's conduct, Plaintiffs have suffered, are continuing to suffer, and will in the future suffer irreparable loss and injury. Plaintiffs are therefore entitled to the relief requested herein.

100. Defendant continues to engage in the discriminatory conduct alleged in this Complaint, so as to constitute a continuing violation against Plaintiffs.

101. Defendant's conduct was intentional, wanton, malicious, and done in reckless disregard of the civil rights of Plaintiffs and the residents of OHFC.

102. In doing the acts or in failing to act as alleged in this Complaint, Breakell and Gibson were acting in the course and scope of their actual or apparent authority granted by the City. The alleged acts or omissions of Breakell and Gibson and every other representative or agent of the City were subsequently ratified and adopted by the City.

FIRST CAUSE OF ACTION

Fair Housing Act, 42 U.S.C. §§ 3604, 3617

103. Plaintiffs reallege and incorporate by reference all above paragraphs, as if fully set forth herein.

104. Defendant's actions described in this Complaint amount to unlawful disability discrimination in violation of the federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.*

105. Defendant's acts violated the Fair Housing Act by:

- a. Discriminating or otherwise making housing unavailable because of a disability, in violation of 42 U.S.C. § 3604(f)(1);
- b. Discriminating in the terms, conditions, and privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);
- c. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B);
- d. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based handicap, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c); and
- e. Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.

106. Defendant's actions and omissions in violation of the Fair Housing Act caused Plaintiffs' injuries as detailed above.

SECOND CAUSE OF ACTION

**Titles II and V of the Americans with Disabilities Act,
42 U.S.C. §§ 12131–12132, 12203**

107. Plaintiffs reallege and incorporate by reference all above paragraphs, as if fully set forth herein.

108. Defendant’s actions violate the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* which requires the City to administer all of its programs and activities—including its legislative, executive, zoning, and code enforcement functions—in a manner that does not discriminate on the basis of disability, and to “administer [its] services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” 28 C.F.R. § 35.130(d) (2016).

109. Defendant’s acts violated Title II of the Americans with Disabilities Act by:

- a. Subjecting to discrimination or excluding a qualified individual with a disability, by reason of such disability, from participation in or denying that person the benefits of services, programs, or activities of a public entity in violation of 42 U.S.C. §§ 12131 and 12132; and
- b. Refusing to make reasonable accommodations or modifications in rules, policies, or practices, in violation of 42 U.S.C. §§ 12131 and 12132.

110. Defendant’s acts violated Title V of the ADA by:

- a. Retaliating or otherwise discriminating against an individual because such person has opposed any act or practice made unlawful by the Americans with Disabilities Act or because such individual assisted or participated in any

manner in an investigation, proceeding, or hearing under the Americans with Disabilities Act, in violation of 42 U.S.C. § 12203(a); and

- b. Coercing, intimidating, threatening, or interfering with an individual's exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Americans with Disabilities Act, in violation of 42 U.S.C. § 12203(b).

111. Defendant's actions and omissions in violation of the Americans with Disabilities Act caused Plaintiffs' injuries as detailed above.

REQUEST FOR RELIEF

Based on the foregoing, Plaintiffs respectfully request that the Court grant the following relief:

A. Enter a declaratory judgment that the foregoing actions of Defendant violate the Fair Housing Act, 42 U.S.C. §§ 3604, 3617 and the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12132, 12203;

B. Enter an injunction, and all other affirmative relief necessary, enjoining Defendant and its affiliates, subsidiaries, agents, employees, and representatives from continuing the illegal conduct described above, and further directing Defendant to remedy the effects of its illegal, discriminatory conduct as alleged in this Complaint and to prevent similar occurrences in the future. Such affirmative relief should include, but not necessarily be limited to, the elimination of any and all policies prohibiting OHFC from operating an Oxford House at 202 West 38th Street in Farmington under the same terms that a family could occupy the home;

C. Award compensatory damages to Plaintiffs in an amount that would fully compensate them for their economic losses, reputational harm, and interference with and frustration of their mission to provide community-based sober living housing for individuals recovering from substance use disorders, resulting from Defendant's unlawful and discriminatory conduct;

D. Award Plaintiffs their reasonable attorneys' fees and costs; and

E. Order such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

DATED: July 26, 2024

Respectfully submitted,

/s/ Reed Colfax

Reed Colfax, Bar No. 9302

Edward Olds*

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** Pending admission pro hac vice*